IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 16150 of 2007(V)

CMP.5045/2006 of C.J.M., ALAPPUZHA

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PETITIONERS:

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1. SIMON VAZ,
DOOR NO.17/1714 a,
VAIKATHKARAN HOUSE,
EXCHANGE ROAD,
ALAPPUZHA.

2. HEMA ANTONY,
W/O. SIMON VAZ, DO - DO-

BY ADV. SRI.B.S.SWATHY KUMAR
SRI.BINDU SREEKUMAR
SRI.K.G.RENGANATH

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY,
MINISTRY OF LAW, NEW DELHI.

2. VIJAYA BANK,
WILLINGDON ISLAND BRANCH,
NEAR AYYAPPA TEMPLE,
NAVAL ROAD, KOCHI 682 003
REPRESENTED BY THE CHIEF MANAGER,
VIJAYA BANK REGIONAL OFFICE,
M.G. ROAD, ERNAKULAM.

BY SRI. P. PARAMESWARAN NAIR- CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.16150 OF 2007

DATED THIS THE 29th DAY OF MAY, 2007

JUDGMENT

The petitioners challenge Ext.P5 order of the Chief Judicial Magistrate, Alappuzha appointing an Advocate Commissioner for giving possession of the property belonging to the petitioner to the Bank in whose favour the property is mortgaged, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioners' contention is that the Chief Judicial Magistrate has no jurisdiction to pass Ext.P5 the way he has done it without going into that question.

2. I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner in so far as there is no challenge against the liability of the petitioner to pay the amount due to the Bank for realisation of which proceedings under the Act has been taken. He also does not dispute the amount demanded. In such circumstances, I am not inclined to entertain this writ petition. In any event, it is settled law that the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 has to be challenged before the Debt Recovery Tribunal in appeal as

provided under the Act itself. Accordingly, the writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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